

Public Chapter 402

SENATE BILL NO. 1936

**By McNally, Atchley, Jordan, Koella, Ramsey, Carter, Elsea, Person, Leatherwood,
Crowe**

Substituted for: House Bill No. 1803

By McKee, McDaniel, Davis

AN ACT To amend Tennessee Code Annotated, Section 4-15-102(f)(2); Section 12-4-201 and Title 12, Chapter 2; and to repeal Tennessee Code Annotated, Section 29-17-1203, relative to the acquisition and disposal of state interests in real property and "surety bonds" on public works projects.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-2-112(a)(3), is amended by deleting the words "bid will be awarded" and substituting instead "bidder will be notified of the intent to award".

SECTION 2. Tennessee Code Annotated, Section 12-2-112(a)(5), is amended by inserting the words "or appraisal" between the words "advertisement" and "as".

SECTION 3. Tennessee Code Annotated, Section 12-2-112(a)(8), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(8) If such property was acquired by the Department of Transportation for right-of-way, if its fair market value does not exceed twenty-five thousand dollars (\$25,000) or such amounts in excess of twenty-five thousand dollars (\$25,000) as may be approved by the State Building Commission, and if any adjoining property owner wishes to purchase the same, then the provisions of this section shall not apply. Instead, the Commissioner of Transportation is authorized to declare the property surplus if such commissioner determines that the purpose of its acquisition has been completed and that such property is no longer needed by the Department of Transportation, and to sell it to any adjoining property owner for an amount representing not less than the fair market value, together with costs. The Commissioner of Finance and Administration shall concur in the fair market value amount. Any conveyance executed pursuant to these provisions shall bear the fair market value of the property. The cost of appraising and surveying the property shall be separately reimbursed to the Department of Transportation by the purchaser.

SECTION 4. Tennessee Code Annotated, Section 12-2-112(a)(9), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(9) If property acquired by the Department of Transportation for a right-of-way through the exercise of eminent domain or otherwise is determined by the Commissioner of Transportation to be no longer needed by the Department of Transportation and such excess property is not transferred to another state agency or conveyed to some other legal governmental body as provided in this section, and such excess property is not disposed of in accordance with subsection (a)(8), the excess property shall be disposed of by the Department of Finance and Administration in accordance with the following procedures:

(A) The excess property shall be sold to any adjoining property owner at fair market value. All funds collected from the sale of the property shall be paid into the highway fund, as provided in subsection (a)(7);

(B) The costs associated with the conveyance of the land, including, but not limited to, the cost of appraising and surveying the property, shall be reimbursed to the state by the purchaser of the property;

(C) Any such conveyance of the property, made pursuant to this subsection, shall be subject to approval in advance by the State Building Commission;

(D) If no adjoining property owner is able and willing to purchase the excess property at fair market value, then the excess property may be disposed of in accordance with existing statutes; and

(E) For the purposes of this subsection, the fair market value of the excess property shall initially be determined by the state through procedures established by the State Building Commission. If such initial determination of fair market value is deemed unacceptable by the intended purchaser, the fair market value of the excess property shall then be determined by averaging the state's initial determination of fair market value with two (2) additional fair market value appraisals of the excess property. The two (2) additional appraisals shall be performed by two (2) nonassociated appraisers from the locality in which the property is located. The two (2) appraisers shall be mutually agreed upon by the parties to the conveyance; none of the appraisers involved shall have any personal or financial interest in the conveyance.

SECTION 5. Tennessee Code Annotated, Section 12-2-112(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d) The provisions of this section and Section 4-15-102 do not apply to leasing surplus state real property under crop lease arrangements by the Tennessee Wildlife Resources Agency which shall be responsible for the leasing of such surplus state real property for crop leases, as well as being responsible for the administration of all crop leases; such leasing and administration shall be through procedures reviewed and approved by the State Building Commission.

SECTION 6. Tennessee Code Annotated, Section 12-2-114(a), is amended by deleting the words "facilities management division" and by substituting instead the words "division of real property management".

SECTION 7. Tennessee Code Annotated, Section 12-2-114(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) Where the annual rental will be less than an amount to be specified by policy of the State Building Commission, the amount not to exceed twenty-five thousand dollars (\$25,000), or where the term of the lease will be one (1) year or less;

SECTION 8. Tennessee Code Annotated, Section 12-2-115(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) Notwithstanding any other law to the contrary, no lease of property to the state government or any agency, department, institution or office thereof shall be entered into unless the instrument of lease is first approved as to form and legality by the Attorney General and Reporter. This provision shall only apply to leases which are longer than five (5) years or if the consideration for any such lease amounts to more than seventy-five thousand dollars (\$75,000) per year.

SECTION 9. Tennessee Code Annotated, Section 12-2-115(b), is amended by deleting the words "forty thousand dollars (\$40,000)" and by substituting instead the words "seventy-five thousand dollars (\$75,000)".

SECTION 10. Tennessee Code Annotated, Section 12-2-115(c), is amended by deleting the words "by or" between the words "property" and "to".

SECTION 11. Tennessee Code Annotated, Section 12-2-115(d), is amended by deleting the subsection in its entirety and renumbering subsequent subsections accordingly.

SECTION 12. Tennessee Code Annotated, Section 12-2-115(e), is amended by deleting the words "by or" between the words "property" and "to".

SECTION 13. Tennessee Code Annotated, Section 12-4-201(a), is amended by deleting the words "twenty-five thousand dollars (\$25,000)" in the second sentence and by substituting instead the words "one hundred thousand dollars (\$100,000)". Subsection (a) is further amended by deleting the words "under twenty-five thousand dollars (\$25,000)" in the last sentence and by substituting instead the words "of one hundred thousand dollars (\$100,000) or less".

SECTION 14. Tennessee Code Annotated, Section 4-15-102(f)(2)(A), is amended by inserting after the word "contract" the following language "in excess of one hundred thousand dollars (\$100,000)" and by inserting the words "payment and performance bond" between the words "surety" and "bond".

SECTION 15. Tennessee Code Annotated, Section 4-15-102(f)(2)(B), is amended by inserting after the words "improvement project" the following language "and payment for all labor and materials used by the contractor, or any immediate or remote subcontractor under the contract" and further amended by deleting the following words "such building contractor is awarded".

SECTION 16. Tennessee Code Annotated, Section 29-17-1203, is amended by deleting the section in its entirety.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

